

toll facility, including reconstruction, resurfacing, restoration, and rehabilitation of the toll facility; and

“(B) regular audits will be conducted to ensure compliance with subparagraph (A) and the results of such audits will be transmitted to the Secretary.

“(6) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program, funds apportioned for Interstate maintenance under section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.

“(7) PROGRAM TERM.—The Secretary shall conduct the pilot program under this subsection for a term to be determined by the Secretary, but not less than 10 years.

“(8) INTERSTATE SYSTEM DEFINED.—In this subsection, the term ‘Interstate System’ has the meaning such term has under section 101 of title 23, United States Code.”

#### CONTINUATION OF EXISTING AGREEMENTS

Section 1012(d) of title I of Pub. L. 102-240 provided that: “Unless modified under section 129(a)(6) of such title [this title], as amended by subsection (a) of this section, agreements entered into under section 119(e) or 129 of such title before the effective date of this title [Dec. 18, 1991] and in effect on the day before such effective date shall continue in effect on and after such effective date in accordance with the provisions of such agreement and such section 119(e) or 129.”

#### CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES

Pub. L. 102-240, title I, §1064, Dec. 18, 1991, 105 Stat. 2005, as amended by Pub. L. 102-388, title III, §332, Oct. 6, 1992, 106 Stat. 1550; Pub. L. 105-178, title I, §1207(b), June 9, 1998, 112 Stat. 185, which directed the Secretary to carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c) of this title, was repealed by Pub. L. 109-59, title I, §1801(c), Aug. 10, 2005, 119 Stat. 1456. See section 147 of this title.

#### STUDY TO DETERMINE EXTENT OF BONDED INDEBTEDNESS OF STATES FOR CONSTRUCTION OF TOLL ROADS INCORPORATED INTO INTERSTATE SYSTEM

Section 164 of Pub. L. 95-599, as amended by Pub. L. 96-106, §16, Nov. 19, 1979, 93 Stat. 798, directed Secretary of Transportation to report not later than July 1, 1980, respecting extent of outstanding bonded indebtedness for each State as of Jan. 1, 1979, incurred by each State or public authority prior to June 29, 1956, for road construction or portions incorporated within Interstate System, and methods of allocating bonded indebtedness and removal of toll provisions.

#### RICHMOND-PETERSBURG TURNPIKE

Section 131 of Pub. L. 91-605 provided that: “The Secretary of Transportation is authorized to amend any agreement heretofore entered into under the provisions of section 129(d) of title 23, United States Code, in order to permit the continuation of tolls on the existing Richmond-Petersburg Turnpike to finance the construction within the existing termini of such turnpike of two lanes thereon in addition to the lanes in existence on the date of enactment of this section [Dec. 31, 1970] necessary to meet traffic and highway safety requirements. Any amended agreement entered into for such purposes shall provide assurances that the existing turnpike (including the additional lanes) shall become free to the public upon the collection of tolls sufficient to liquidate all construction costs, and the costs of maintenance, operation, and debt service during the period of toll collections to liquidate such construction costs, but in no event shall tolls be collected after date of maturity of those bonds outstanding on the date of enactment of this section [Dec. 31, 1970] issued for construction of such turnpike having the latest maturity date.”

### § 130. Railway-highway crossings

(a) Subject to section 120 and subsection (b) of this section, the entire cost of construction of projects for the elimination of hazards of railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings, may be paid from sums apportioned in accordance with section 104 of this title. In any case when the elimination of the hazards of a railway-highway crossing can be effected by the relocation of a portion of a railway at a cost estimated by the Secretary to be less than the cost of such elimination by one of the methods mentioned in the first sentence of this section, then the entire cost of such relocation project, subject to section 120 and subsection (b) of this section, may be paid from sums apportioned in accordance with section 104 of this title.

(b) The Secretary may classify the various types of projects involved in the elimination of hazards of railway-highway crossings, and may set for each such classification a percentage of the costs of construction which shall be deemed to represent the net benefit to the railroad or railroads for the purpose of determining the railroad's share of the cost of construction. The percentage so determined shall in no case exceed 10 per centum. The Secretary shall determine the appropriate classification of each project.

(c) Any railroad involved in a project for the elimination of hazards of railway-highway crossings paid for in whole or in part from sums made available for expenditure under this title, or prior Acts, shall be liable to the United States for the net benefit to the railroad determined under the classification of such project made pursuant to subsection (b) of this section. Such liability to the United States may be discharged by direct payment to the State transportation department of the State in which the project is located, in which case such payment shall be credited to the cost of the project. Such payment may consist in whole or in part of materials and labor furnished by the railroad in connection with the construction of such project. If any such railroad fails to discharge such liability within a six-month period after completion of the project, it shall be liable to the United States for its share of the cost, and the Secretary shall request the Attorney General to institute proceedings against such railroad for the recovery of the amount for which it is liable under this subsection. The Attorney General is authorized to bring such proceedings on behalf of the United States, in the appropriate district court of the United States, and the United States shall be entitled in such proceedings to recover such sums as it is considered and adjudged by the court that such railroad is liable for in the premises. Any amounts recovered by the United States under this subsection shall be credited to miscellaneous receipts.

(d) SURVEY AND SCHEDULE OF PROJECTS.—Each State shall conduct and systematically maintain a survey of all highways to identify those railroad crossings which may require separation, relocation, or protective devices, and es-

tablish and implement a schedule of projects for this purpose. At a minimum, such a schedule shall provide signs for all railway-highway crossings.

(e) FUNDS FOR PROTECTIVE DEVICES.—

(1) IN GENERAL.—Before making an apportionment under section 104(b)(5) for a fiscal year, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 for such fiscal year, at least \$220,000,000 for the elimination of hazards and the installation of protective devices at railway-highway crossings. At least  $\frac{1}{2}$  of the funds authorized for and expended under this section shall be available for the installation of protective devices at railway-highway crossings. Sums authorized to be appropriated to carry out this section shall be available for obligation in the same manner as funds apportioned under section 104(b)(1) of this title.

(2) SPECIAL RULE.—If a State demonstrates to the satisfaction of the Secretary that the State has met all its needs for installation of protective devices at railway-highway crossings, the State may use funds made available by this section for other highway safety improvement program purposes.

(f) APPORTIONMENT.—

(1) FORMULA.—Fifty percent of the funds set aside to carry out this section pursuant to subsection (e)(1) shall be apportioned to the States in accordance with the formula set forth in section 104(b)(3)(A), and 50 percent of such funds shall be apportioned to the States in the ratio that total public railway-highway crossings in each State bears to the total of such crossings in all States.

(2) MINIMUM APPORTIONMENT.—Notwithstanding paragraph (1), each State shall receive a minimum of one-half of 1 percent of the funds apportioned under paragraph (1).

(3) FEDERAL SHARE.—The Federal share payable on account of any project financed with funds set aside to carry out this section shall be 90 percent of the cost thereof.

(g) ANNUAL REPORT.—Each State shall report to the Secretary not later than December 30 of each year on the progress being made to implement the railway-highway crossings program authorized by this section and the effectiveness of such improvements. Each State report shall contain an assessment of the costs of the various treatments employed and subsequent accident experience at improved locations. The Secretary shall submit a report to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation,<sup>1</sup> of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, not later than April 1, 2006, and every 2 years thereafter,<sup>1</sup> on the progress being made by the State in implementing projects to improve railway-highway crossings. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, nature of treatment, and subsequent accident experience

at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (d) and include recommendations for future implementation of the railroad highway<sup>2</sup> crossings program.

(h) USE OF FUNDS FOR MATCHING.—Funds authorized to be appropriated to carry out this section may be used to provide a local government with funds to be used on a matching basis when State funds are available which may only be spent when the local government produces matching funds for the improvement of railway-highway crossings.

(i) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—

(1) IN GENERAL.—Notwithstanding any other provision of this section and subject to paragraphs (2) and (3), a State may, from sums available to the State under this section, make incentive payments to local governments in the State upon the permanent closure by such governments of public at-grade railway-highway crossings under the jurisdiction of such governments.

(2) INCENTIVE PAYMENTS BY RAILROADS.—A State may not make an incentive payment under paragraph (1) to a local government with respect to the closure of a crossing unless the railroad owning the tracks on which the crossing is located makes an incentive payment to the government with respect to the closure.

(3) AMOUNT OF STATE PAYMENT.—The amount of the incentive payment payable to a local government by a State under paragraph (1) with respect to a crossing may not exceed the lesser of—

- (A) the amount of the incentive payment paid to the government with respect to the crossing by the railroad concerned under paragraph (2); or
- (B) \$7,500.

(4) USE OF STATE PAYMENTS.—A local government receiving an incentive payment from a State under paragraph (1) shall use the amount of the incentive payment for transportation safety improvements.

(j) BICYCLE SAFETY.—In carrying out projects under this section, a State shall take into account bicycle safety.

(k) EXPENDITURE OF FUNDS.—Not more than 2 percent of funds apportioned to a State to carry out this section may be used by the State for compilation and analysis of data in support of activities carried out under subsection (g).

(l) NATIONAL CROSSING INVENTORY.—

(1) INITIAL REPORTING OF CROSSING INFORMATION.—Not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008 or within 6 months of a new crossing becoming operational, whichever occurs later, each State shall report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported public crossing located within its borders.

<sup>1</sup> So in original.

<sup>2</sup> So in original. Probably should be "railroad-highway".

(2) PERIODIC UPDATING OF CROSSING INFORMATION.—On a periodic basis beginning not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each State shall report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each public crossing located within its borders.

(3) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this subsection. The Secretary may enforce each provision of the Department of Transportation's statement of the national highway-rail crossing inventory policy, procedures, and instructions for States and railroads that is in effect on the date of enactment of the Rail Safety Improvement Act of 2008, until such provision is superseded by a regulation issued under this subsection.

(4) DEFINITIONS.—In this subsection—

(A) “public crossing” means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks either at grade or grade-separated, where—

(i) a public highway, road, or street, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

(ii) a publicly owned pathway explicitly authorized by a public authority or a railroad carrier and dedicated for the use of non-vehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated; and

(B) “State” means a State of the United States, the District of Columbia, or Puerto Rico.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 903; Pub. L. 100-17, title I, § 121(a), Apr. 2, 1987, 101 Stat. 159; Pub. L. 104-59, title III, § 325(a), Nov. 28, 1995, 109 Stat. 591; Pub. L. 104-205, title III, § 353(b), Sept. 30, 1996, 110 Stat. 2980; Pub. L. 105-178, title I, §§ 1111(d), 1202(d), 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 146, 170, 193; Pub. L. 109-59, title I, § 1401(c), formerly § 1401(d), Aug. 10, 2005, 119 Stat. 1226, renumbered § 1401(c), Pub. L. 110-244, title I, § 101(s)(1), June 6, 2008, 122 Stat. 1577; Pub. L. 110-244, title I, § 101(l), June 6, 2008, 122 Stat. 1575; Pub. L. 110-432, div. A, title II, § 204(c), Oct. 16, 2008, 122 Stat. 4871.)

#### REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (l)(1) to (3), is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

#### AMENDMENTS

2008—Subsec. (e)(2). Pub. L. 110-244, § 101(l), substituted “highway safety improvement program purposes” for “purposes under this subsection”.

Subsec. (l). Pub. L. 110-432 added subsec. (l).

2005—Subsec. (e). Pub. L. 109-59, § 1401(c)(1), formerly § 1401(d)(1), as renumbered by Pub. L. 110-244, § 101(s)(1),

designated existing provisions as par. (1), inserted after par. designation “IN GENERAL.—Before making an apportionment under section 104(b)(5) for a fiscal year, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 for such fiscal year, at least \$220,000,000 for the elimination of hazards and the installation of protective devices at railway-highway crossings.”, and added par. (2).

Subsec. (f). Pub. L. 109-59, § 1401(c)(2), formerly § 1401(d)(2), as renumbered by Pub. L. 110-244, § 101(s)(1), reenacted heading without change and amended text of subsec. (f) generally. Prior to amendment, text read as follows: “Twenty-five percent of the funds authorized to be appropriated to carry out this section shall be apportioned to the States in the same manner as sums are apportioned under section 104(b)(2) of this title, 25 percent of such funds shall be apportioned to the States in the same manner as sums are apportioned under section 104(b)(6) of this title, and 50 percent of such funds shall be apportioned to the States in the ratio that total railway-highway crossings in each State bears to the total of such crossings in all States. The Federal share payable on account of any project financed with funds authorized to be appropriated to carry out this section shall be 90 percent of the cost thereof.”

Subsec. (g). Pub. L. 109-59, § 1401(c)(3), formerly § 1401(d)(3), as renumbered by Pub. L. 110-244, § 101(s)(1), in third sentence inserted “and the Committee on Commerce, Science, and Transportation,” after “Public Works” and substituted “, not later than April 1, 2006, and every 2 years thereafter,” for “not later than April 1 of each year”.

Subsec. (k). Pub. L. 109-59, § 1401(c)(4), formerly § 1401(d)(4), as renumbered by Pub. L. 110-244, § 101(s)(1), added subsec. (k).

1998—Subsec. (a). Pub. L. 105-178, § 1111(d), substituted “Subject to section 120” for “Except as provided in subsection (d) of section 120 of this title” in first sentence and “subject to section 120” for “except as provided in subsection (d) of section 120 of this title” in second sentence.

Subsec. (c). Pub. L. 105-178, § 1212(a)(2)(A)(i), substituted “State transportation department” for “State highway department”.

Subsec. (j). Pub. L. 105-178, § 1202(d), added subsec. (j).

1996—Subsec. (i). Pub. L. 104-205 added subsec. (i).

1995—Subsec. (g). Pub. L. 104-59 substituted “Committee on Transportation and Infrastructure” for “Committee on Public Works and Transportation” in third sentence.

1987—Subsecs. (d) to (h). Pub. L. 100-17 added subsecs. (d) to (h).

#### FEDERAL SHARE OF COSTS FOR CONSTRUCTION TO ELIMINATE HAZARDS

Pub. L. 106-246, div. B, title II, § 2604, July 13, 2000, 114 Stat. 559, provided that: “Notwithstanding any other provision of law, hereafter, funds apportioned under section 104(b)(3) of title 23 which are applied to projects involving the elimination of hazards of railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings, may have a Federal share up to 100 percent of the cost of construction.”

#### FEDERAL-STATE COOPERATION

Section 351(b), (c) of Pub. L. 104-59 provided that:

“(b) SAFETY ENFORCEMENT.—

“(1) COOPERATION BETWEEN FEDERAL AND STATE AGENCIES.—The National Highway Traffic Safety Administration and the Office of Motor Carriers within the Federal Highway Administration shall cooperate and work, on a continuing basis, with the National Association of Governors' Highway Safety Representatives, the Commercial Vehicle Safety Alliance, and Operation Lifesaver, Inc., to improve compliance

with and enforcement of laws and regulations pertaining to railroad-highway grade crossings.

“(2) REPORT.—Not later than June 1, 1998, the Secretary shall submit to Congress a report indicating—

“(A) how the Department of Transportation worked with the entities referred to in paragraph (1) to improve the awareness of the highway and commercial vehicle safety and law enforcement communities of regulations and safety challenges at railroad-highway grade crossings; and

“(B) how resources are being allocated to better address these challenges and enforce such regulations.

“(c) FEDERAL-STATE PARTNERSHIP.—

“(1) STATEMENT OF POLICY.—

“(A) HAZARDS TO SAFETY.—Certain railroad-highway grade crossings present inherent hazards to the safety of railroad operations and to the safety of persons using those crossings. It is in the public interest—

“(i) to promote grade crossing safety and reduce risk at high risk railroad-highway grade crossings; and

“(ii) to reduce the number of grade crossings while maintaining the reasonable mobility of the American people and their property, including emergency access.

“(B) EFFECTIVE PROGRAMS.—Effective programs to reduce the number of unneeded and unsafe railroad-highway grade crossings require the partnership of Federal, State, and local officials and agencies, and affected railroads.

“(C) HIGHWAY PLANNING.—Promotion of a balanced national transportation system requires that highway planning specifically take into consideration grade crossing safety.

“(2) PARTNERSHIP AND OVERSIGHT.—The Secretary shall encourage each State to make progress toward achievement of the purposes of this subsection.”

#### VEHICLE PROXIMITY ALERT SYSTEM

Pub. L. 102-240, title I, §1072, Dec. 18, 1991, 105 Stat. 2012, provided that: “The Secretary shall coordinate the field testing of the vehicle proximity alert system and comparable systems to determine their feasibility for use by priority vehicles as an effective railroad-highway grade crossing safety device. In the event the vehicle proximity alert or a comparable system proves to be technologically and economically feasible, the Secretary shall develop and implement appropriate programs under section 130 of title 23, United States Code, to provide for installation of such devices where appropriate.”

#### RAILWAY-HIGHWAY CROSSING HAZARDS; NATIONAL HIGHWAY INFORMATION PROGRAM FUNDING

Pub. L. 100-457, title III, §324, Sept. 30, 1988, 102 Stat. 2150, provided that: “Notwithstanding any other provision of law, the Secretary shall make available \$250,000 per year for a national public information program to educate the public of the inherent hazard at railway-highway crossings. Such funds shall be made available out of funds authorized to be appropriated out of the Highway Trust Fund, pursuant to section 130 of title 23, United States Code.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 100-202, §101(f) [title III, §339], Dec. 22, 1987, 101 Stat. 1329-358, 1329-386.

#### RAILROAD-HIGHWAY CROSSINGS STUDY AND REPORT

Section 159 of Pub. L. 100-17 directed Secretary of Transportation to conduct a study of national highway-railroad crossing improvement and maintenance needs, with Secretary to consult with State highway administrations, the Association of American Railroads, highway safety groups, and any other appropriate entities in carrying out this study, and directed Secretary, not later than 24 months after Apr. 2, 1987,

to submit a final report to Congress on results of the study along with recommendations of how crossing needs can be addressed in a cost effective manner.

#### STUDY AND INVESTIGATION OF ALLEVIATION OF ENVIRONMENTAL, SOCIAL, ETC., IMPACTS OF INCREASED UNIT TRAIN TRAFFIC

Pub. L. 95-599, title I, §162, Nov. 6, 1978, 92 Stat. 2720, authorized Secretary of Transportation, in cooperation with State highway departments and appropriate officials of local government, to undertake a comprehensive investigation and study of techniques for alleviating the environmental, social, economic, and developmental impacts of increased unit train traffic to meet national energy requirements in communities located along rail corridors experiencing such increased traffic and directed Secretary to report to Congress on results of such investigation and study not later than Mar. 31, 1979.

#### DEMONSTRATION PROJECT, RAILROAD-HIGHWAY CROSSINGS; REPORTS TO PRESIDENT AND CONGRESS; APPROPRIATIONS AUTHORIZATION; HIGHWAY SAFETY STUDY, REPORT TO CONGRESS

Pub. L. 93-87, title I, §163, Aug. 13, 1973, 87 Stat. 280, as amended by Pub. L. 93-643, §104, Jan. 4, 1975, 88 Stat. 2282; Pub. L. 94-280, title I, §140(a)-(e), May 5, 1976, 90 Stat. 444; Pub. L. 95-599, title I, §134(a)-(c), Nov. 6, 1978, 92 Stat. 2709; Pub. L. 96-470, title II, §209(b), Oct. 19, 1980, 94 Stat. 2245; Pub. L. 97-424, title I, §151, Jan. 6, 1983, 96 Stat. 2132; Pub. L. 100-17, title I, §§133(c)(3), 148, Apr. 2, 1987, 101 Stat. 172, 181; Pub. L. 100-202, §101(f) [title III, §346], Dec. 22, 1987, 101 Stat. 1329-358, 1329-388; Pub. L. 102-240, title I, §1037, Dec. 18, 1991, 105 Stat. 1987; Pub. L. 104-66, title I, §1121(e), Dec. 21, 1995, 109 Stat. 724, provided that:

“(a)(1) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out demonstration projects in Lincoln, Nebraska, Wheeling, West Virginia, and Elko, Nevada, for the relocation of railroad lines from the central area of the cities in conformance with the methodology developed under proposals submitted to the Secretary by the respective cities. The cities shall (1) have a local agency with legal authority to relocate railroad facilities, levy taxes for such purpose, and a record of prior accomplishment; and (2) have a current relocation plan for such lines which has a favorable benefit-cost ratio involving and having the unanimous approval of three or more class 1 railroads in Lincoln, Nebraska, and the two class 1 railroads in Wheeling, West Virginia, and Elko, Nevada, and multicivic, local, and State agencies, and which provides for the elimination of a substantial number of the existing railway-road conflict points within the city.

“(2) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Lafayette, Indiana, for relocation of railroad lines from the central area of the city. There are authorized to be appropriated to carry out this paragraph \$360,000 for the fiscal year ending June 30, 1975.

“(b) The Secretary of Transportation shall carry out a demonstration project for the elimination or protection of certain public ground-level rail-highway crossings in, or in the vicinity of, Springfield, Illinois.

“(c) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out demonstration projects in Brownsville, Texas, and Matamoros, Mexico, for the relocation of railroad lines from the central area of the cities in conformance with the methodology developed under proposals submitted to the Secretary by the Brownsville Navigation District, providing for the construction of an international bridge and for the elimination of a substantial number of existing railway-road conflict points within the cities.

“(d) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a

demonstration project in East Saint Louis, Illinois, for the relocation of rail lines between Thirteenth and Forty-third Streets, in accordance with methodology approved by the Secretary. The Secretary of Transportation shall carry out a demonstration project for the relocation of rail lines in the vicinity of Carbondale, Illinois.

“(e) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in New Albany, Indiana, for the elimination of the existing rail loop and relocation of rail lines to a location between Vincennes Street and East Eighth Street, in accordance with methodology approved by the Secretary.

“(f) The Secretary of Transportation shall carry out demonstration projects for the construction of an overpass at the rail-highway grade crossing on Cottage Grove Avenue between One Hundred Forty-second Street and One Hundred Thirty-eighth Street in the village of Dolton, Illinois, and the construction of an overpass at the rail-highway grade crossing at Vermont Street and the Rock Island Railroad tracks in the city of Blue Island, Illinois.

“(g) The Secretary of Transportation shall carry out a demonstration project for the elimination of the ground level railroad highway crossing on United States Route 69 in Greenville, Texas.

“(h) The Secretary of Transportation shall carry out a demonstration project in Anoka, Minnesota, for the construction of an underpass at the Seventh Avenue and County Road 7 railroad-highway grade crossing.

“(i) The Secretary of Transportation shall carry out a demonstration project in Metairie, Jefferson Parish, Louisiana, for the relocation or grade separation of rail lines whichever he deems most feasible in order to eliminate certain grade level railroad highway crossings.

“(j) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Augusta, Georgia, for the relocation of railroad lines and for the purpose of eliminating highway railroad grade crossings.

“(k) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Pine Bluff, Arkansas, for the relocation of railroad lines for the purpose of eliminating highway railroad grade crossings.

“(l) The Secretary of Transportation shall carry out a demonstration project in Sherman, Texas, for the relocation of rail lines in order to eliminate the ground level railroad crossing at the crossing of the Southern Pacific and Frisco Railroads with Grand Avenue-Roberts Road.

“(m) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Hammond, Indiana, for the relocation of railroad lines for the purposes of eliminating highway railroad grade crossings.

“(n) The Federal share payable on account of such projects shall be the Federal share provided in section 120(a) of title 23, United States Code. [sic] except those railroad-highway crossings segments which are already engaged in or have completed the preparation of the plans, specifications and estimates (PS&E) for the construction of the segment involved shall retain the Federal share as specified in subsection [sic] 163(n) [this subsection] as amended by section 134 of the Surface Transportation Assistance Act of 1978 [section 134 of Pub. L. 95-599].

“[(o) Repealed. Pub. L. 104-66, title I, § 1121(e), Dec. 21, 1995, 109 Stat. 724.]

“(p) There is authorized to be appropriated to carry out this section (other than subsection (l)), not to exceed \$15,000,000 for the fiscal year ending June 30, 1974, \$25,000,000 for the fiscal year ending June 30, 1975, and \$50,000,000 for the fiscal year ending June 30, 1976, \$6,250,000, for the period beginning July 1, 1976, and ending September 30, 1976, \$26,400,000 for the fiscal year ending September 30, 1977, and \$51,400,000 for the fiscal year ending September 30, 1978, \$70,000,000 for the fiscal

year ending September 30, 1979, and \$90,000,000 for the fiscal year ending September 30, 1980, \$100,000,000 for the fiscal year ending September 30, 1981, and \$100,000,000 for the fiscal year ending September 30, 1982, and \$50,000,000 for the fiscal year ending September 30, 1983, and \$50,000,000 for the fiscal year ending September 30, 1984, and \$50,000,000 for the fiscal year ending September 30, 1985, and \$50,000,000 for the fiscal year ending September 30, 1986, and \$15,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, 1991, 1992, 1993, and 1994, except that not more than two-thirds of all funds authorized and expended under authority of this section in any fiscal year shall be appropriated out of the Highway Trust fund. Notwithstanding any other provision of this section, any project which is not under construction, according to the Secretary of Transportation, by September 30, 1985, shall not be eligible for additional funds under this authorization.

“(q) The Secretary, in cooperation with State highway departments and local officials, shall conduct a full and complete investigation and study of the problem of providing increased highway safety by the relocation of railroad lines from the central area of cities on a nationwide basis, and report to the Congress his recommendations resulting from such investigation and study not later than July 1, 1975, including an estimate of the cost of such a program. Funds authorized to carry out section 307 of title 23, United States Code, are authorized to be used to carry out the investigation and study required by this subsection.”

#### DEMONSTRATION PROJECT, RAILROAD-HIGHWAY CROSSINGS; INCLUSION OF PROJECTS AT TERRE HAUTE, INDIANA

Pub. L. 94-387, title I, § 101, Aug. 14, 1976, 90 Stat. 1176, provided in part: “That section 163 of Public Law 93-87 [set out as a note above] is hereby amended to include projects at Terre Haute, Indiana.”

#### RAILROAD-HIGHWAY CROSSINGS

Pub. L. 93-87, title II, § 203, Aug. 13, 1973, 87 Stat. 283, as amended by Pub. L. 94-280, title II, § 203, May 5, 1976, 90 Stat. 452; Pub. L. 95-599, title II, § 203, Nov. 6, 1978, 92 Stat. 2728; Pub. L. 96-470, title II, § 209(d), Oct. 19, 1980, 94 Stat. 2245; Pub. L. 97-327, § 5(b), Oct. 15, 1982, 96 Stat. 1612; Pub. L. 97-424, title II, § 205, Jan. 6, 1983, 96 Stat. 2139, which directed each State to conduct a survey of all highways to identify those railway crossings requiring separation, relocation, or protective devices and to establish and implement a schedule of projects for such purpose, which at a minimum was to provide for signs at all crossings, authorized appropriations for elimination of hazards of railway-highway crossings, provided for State apportionments and for the Federal share of the costs of projects, required each State to annually report to the Secretary of Transportation and the Secretary of Transportation to annually report to Congress on progress in implementing railroad-highway crossings program, and authorized use of matching funds with local governments for improvement of railroad crossings, was repealed by Pub. L. 100-17, title I, § 121(b), Apr. 2, 1987, 101 Stat. 160.

Highway authorizations provisions of section 104(a) (1) and (2) of Pub. L. 93-87, referred to in section 203(d) of Pub. L. 93-87 provided that:

“(a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

“(1) For the Federal-aid primary system in rural areas, out of the Highway Trust Fund, \$680,000,000 for the fiscal year ending June 30, 1974, \$700,000,000 for the fiscal year ending June 30, 1975, and \$700,000,000 for the fiscal year ending June 30, 1976. For the Federal-aid secondary system in rural areas, out of Highway Trust Fund, \$390,000,000 for the fiscal year ending June 30, 1974, \$400,000,000 for the fiscal year ending June 30, 1975, and \$400,000,000 for the fiscal year ending June 30, 1976.

“(2) For the Federal-aid urban system, out of the Highway Trust Fund, \$780,000,000 for the fiscal year

ending June 30, 1974, \$800,000,000 for the fiscal year ending June 30, 1975, and \$800,000,000 for the fiscal year ending June 30, 1976. For the extensions of the Federal-aid primary and secondary systems in urban areas, out of the Highway Trust Fund \$290,000,000 for the fiscal year ending June 30, 1974, \$300,000,000 for the fiscal year ending June 30, 1975, and \$300,000,000 for the fiscal year ending June 30, 1976."

### § 131. Control of outdoor advertising

(a) The Congress hereby finds and declares that the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

(b) Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of outdoor advertising signs, displays, and devices which are within six hundred and sixty feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, and Federal-aid highway funds apportioned on or after January 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than six hundred and sixty feet off the nearest edge of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be re-appportioned to the other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

(c) Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall, pursuant to this section, be limited to (1) directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder,

which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section, (2) signs, displays, and devices advertising the sale or lease of property upon which they are located, (3) signs, displays, and devices, including those which may be changed at reasonable intervals by electronic process or by remote control, advertising activities conducted on the property on which they are located, (4) signs lawfully in existence on October 22, 1965, determined by the State, subject to the approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, or historic or artistic significance the preservation of which would be consistent with the purposes of this section, and (5) signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate System or the primary system. For the purposes of this subsection, the term "free coffee" shall include coffee for which a donation may be made, but is not required.

(d) In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within six hundred and sixty feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary. The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act. Whenever a bona fide State, county, or local zoning authority has made a determination of customary use, such determination will be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority. Nothing in this subsection shall apply to signs, displays, and devices referred to in clauses (2) and (3) of subsection (c) of this section.

(e) Any sign, display, or device lawfully in existence along the Interstate System or the Federal-aid primary system on September 1, 1965, which does not conform to this section shall not be required to be removed until July 1, 1970. Any other sign, display, or device lawfully erected which does not conform to this section shall not be required to be removed until the end of the fifth year after it becomes nonconforming.

(f) The Secretary shall, in consultation with the States, provide within the rights-of-way for areas at appropriate distances from interchanges on the Interstate System, on which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. The Secretary may also, in consultation with the States, provide within the rights-of-way of the primary system for areas in which signs, displays, and